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VIA ECF

The Honorable Sarah Netburn
Thurgood Marshall Courthouse
40 Foley Square, Room 430
Southern District of New York
New York, New York 10007

Re: *Emergency Physician Services of New York v. UnitedHealth Group, Inc., No. 1:20-cv-09183-JGK-SN: Motion to Seal Exhibits 1 through 3 to Provider Plaintiffs' Letter Response*

Dear Judge Netburn:

In accordance with Local Rule 7.1(d), Rule III.F of Your Honor's Individual Practices in Civil Cases, the S.D.N.Y.'s Sealed Records Filing Instructions, and the Confidentiality Stipulation and Protective Order in effect in this action (the "Protective Order") (Dkt. No. 110), Provider Plaintiffs request that the Court grant them leave to file under seal Exhibits 1 through 3 to the Declaration of Wendy H. Schwartz filed in support of their Letter Response to Your Honor's Order regarding ESI (Dkt No. 313). Exhibits 1 through 3 are documents produced by Provider Plaintiffs in this case, Bates Stamped PLAINTIFFS377751; PLAINTIFFS376533; and PLAINTIFFS376863, all marked Confidential. United has previously consented to the sealing of similar confidential exhibits in this action.

Exhibits 1 through 3 contain Confidential Information, as defined in the Protective Order, including Provider Plaintiffs' and third parties' proprietary market information and/or negotiation methodologies, the disclosure of which, at this juncture, could place them at a competitive disadvantage. Accordingly, Exhibits 1 through 3 should be filed under seal. *See* Dkt. No. 306 (granting United's motion to seal Provider Plaintiffs' confidential business information); *Haley v. Tchrs. Ins. & Annuity Ass'n of Am.*, No. 17-cv-00855 (JPO)(RWL), 2020 WL 3618573, at *1 (S.D.N.Y. July 2, 2020) ("The sealing of documents may be justified to preserve 'higher values,' including the need to protect an entity from 'competitive injury.'"); *Tropical Sails Corp. v. Yext, Inc.*, No. 14-cv-7582, 2016 WL 1451548, at *4 (S.D.N.Y. Apr. 12, 2016) (sealing sensitive business information).

Pursuant to Paragraph 22 of the Protective Order, before filing a Confidential document publicly, the Parties are required to "file a motion with the Court for filing under seal, unless the producing Party otherwise agrees." *Id.* Therefore, Provider Plaintiffs hereby request that the Court grant their request to file under seal Exhibits 1 through 3.

BINDER &
SCHWARTZ

Respectfully submitted,

/s/ Wendy H. Schwartz

Wendy H. Schwartz

cc: Counsel of Record (via ECF)